

Applicants: Paul E. Harris and Charles Hesdorffer
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377 and 378, the method comprising (according to the Restriction Requirement):

- (a) loading blood mononuclear culture container containing microcarrier beads therein;
- (b) incubating for a predetermined time period tissue culture comprising the cells loaded in the container in step (a); and
- (c) separating nonadherent cells and cells adhered to the beads; and

Group II: Claims 1-12, drawn to a method for generating dendritic cells, classified in Class 435, subclasses 377 and 378, the method comprising (according to the Restriction Requirement):

- (a) loading blood mononuclear culture container containing microcarrier beads therein;
- (b) incubating for a predetermined time period tissue culture comprising the cells loaded in the container in step (a);
- (c) separating nonadherent cells and cells adhered to the beads;
- (d) preparing dendritic cell culture medium;
- (e) transferring the dendritic cell culture medium prepared in step (d) to the container after step (c);
- (f) incubating the container for a second predetermined time period after step (e);
- (g) agitating contents of the container incubated in step (f); and
- (h) harvesting cell culture suspension by expression into transfer bags using a

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sterile connecting device after the beads
agitated in step (g) are allowed to settle.

In the March 18, 2002 Restriction Requirement, the Examiner alleged inventions I and II are different methods. The Examiner stated that the methods comprise different method steps. The Examiner further stated that Invention II comprises additional steps, in particular a second incubation of the cells. The Examiner also stated that the methods are patentably distinct. The Examiner further stated that because these inventions are distinct and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

The Examiner stated that the response to this requirement must include an election of the invention to be examined even though the requirement be traversed.

Applicants hereby elect, with traverse, to prosecute the invention of Group II, claims 1-12.

Applicants, however, respectfully request that the Examiner reconsider and withdraw the restriction requirement. Under 35 U.S.C. §121, restriction may be required if two or more independent and distinct inventions are claimed in one application. Under M.P.E.P. §803, the Examiner must examine the application on the merits, even though it includes claims to distinct inventions, if the search and examination of an application can be made without serious burden.

The inventions of Groups I and II are not independent. Under

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M.P.E.P. §802.01, "independent" means there is no disclosed relationship between the subjects disclosed. Group I and Group II are each drawn to a method for generating dendritic cells. In addition, the claims in Group I are a subset of the claims in Group II.

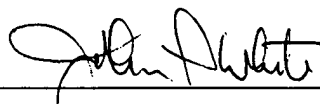
Applicant further maintains that it would not be a serious burden on the Examiner if restriction is not required. Group I and Group II, according to the March 18, 2002 Restriction Requirement, are each classified in class 435, subclasses 377 and 378. Therefore, a search of the prior art for Group II would necessarily identify art for Group I. Applicant therefore maintains that the search and examination of the invention of Group I in addition to the invention of Group II would not be a serious burden on the Examiner. Since there is no burden on the Examiner to examine Groups I and II of the subject application, the Examiner must examine the inventions of Groups I and II on the merits.

Accordingly, in view of the preceding remarks, applicants respectfully request that the Examiner reconsider and withdraw the restriction requirement.

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No fee is deemed necessary in connection with the filing of this Communication. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,



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I hereby certify that this paper is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.



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4/18/02
Date